

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF SOUTH CAROLINA

James Toatley,

Plaintiff,

v.

Sgt. Myers, *Property Ofc. In her Individual Capacity*; SCDC,

Defendants.

C/A No. 0:24-3134-SAL

ORDER

Plaintiff, James Toatley, a self-represented state prisoner, brought this civil rights action. This matter is before the court for review of the July 22, 2024, Report and Recommendation (the “Report”), of United States Magistrate Judge Paige J. Gossett, made in accordance with 28 U.S.C. § 636(b)(1)(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). [ECF No. 10.] In the Report, the magistrate judge recommends the instant action be summarily dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to comply with orders of the court. Specifically, on May 29, 2024, Plaintiff was informed that in order for this case to proceed, he needed to file the documents necessary to bring this case into proper form for the issuance of service of process. [ECF No. 6.] The order warned Plaintiff that failure to comply with the order within the specified time period would subject his case to dismissal for failure to prosecute and for failure to comply with an order of the court. *Id.* Plaintiff did not respond to the order and has not brought his case into proper form. Nor has the Plaintiff responded to the Report, and the time for doing so has expired.

The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this

court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to, and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 10, and incorporates the Report by reference herein. Accordingly, this case is **DISMISSED** without prejudice and without issuance of service of process pursuant to Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

October 24, 2024
Columbia, South Carolina


Sherri A. Lydon
United States District Judge